

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL S. NAUMOVSKI,

Plaintiff,

v.

ORDER
09-CV-862

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). On March 12, 2010 defendant filed a motion for judgment on the pleadings and on March 16, 2010 plaintiff filed a motion for judgment on the pleadings. On June 9, 2010, Magistrate Judge Scott filed a Report and Recommendation, recommending that the decision of the Commissioner be reversed and the matter remanded for further administrative proceedings. Thus, that defendant's motion for judgment on the pleadings should be denied and plaintiff's motion for similar relief in his favor should be granted.

Defendant filed objections to the Report and Recommendation on June 23, 2010 and plaintiff filed a response thereto. Oral argument on the objections was held on August 9, 2010.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and plaintiff's motion for similar relief in his favor is granted. The decision of the Commissioner is reversed and the matter remanded for further administrative proceedings.

SO ORDERED.

s/ Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: August 25, 2010